IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2931 of 2014 (O&M)
Date of decision : 27.09.2018

Raj Kumar Malik

...Appellant

Versus

Haryana Waqf Board and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Akshay Jindal, Advocate for the appellant.

Mr. B.S. Bedi, Advocate for respondent Nos.1 and 2.

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ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

The plaintiff claims that he was a lessee under the Haryana Waqf Board-respondent with respect to land measuring 20 kanals and Waqf Board is refusing to accept the rent.

The Waqf Board defended the suit by pleading that the plaintiff only took the lease for one year and thereafter he is in continuous unauthorized possession. It has further been pointed out that already the decision has been taken to utilize the land measuring 40 kanals for expanding the existing graveyard for construction of a *Eidgah* and a School.

Both the Courts have found that the plaintiff has no right, title or interest in the property after a lease period is over.

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It may be noted that now as per the provision of the Waqf Act, 1995, the Central Government has framed the Waqf Properties Lease Rules, 2014 under which the procedure has been laid down as how to lease the property. Rule 4 deals with leases for a period less than one year, whereas Rule 5 deals with lease which is for more than one year till 30 years. The procedure prescribed is by invitation of bid for determining the amount of lease.

Still further, the Chairman of the Haryana Waqf Board, when summoned in this Court in a previous litigation, has undertaken that no lease would be granted without following the procedure prescribed under the Rules. It is well settled that no one can claim any injunction against a true owner and particularly the public authority without any right, title or interest in the property.

After a period of expiry of lease, the possession of the plaintiff is unauthorized. Such unauthorized possession cannot be protected by the Courts by granting injunction.

In view thereof, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

27.09.2018 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No

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